



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Mr. Ron Foster
Marketing & Planning Specialists, LP
P.O. Box 364
Scott Depot, West Virginia 25560

JUL 12 2013

Re: EPA FOIA Request Nos. EPA-R3-2013-002669 and EPA-R3-2013-006675

Dear Mr. Foster:

Thank you for your letter of May 17, 2013, regarding Freedom of Information Act (FOIA) Request No. EPA-R3-2013-002669. In your letter, you questioned the U.S. Environmental Protection Agency's (EPA) response provided to you on April 22, 2013, and raised additional issues regarding a subsequent FOIA request dated January 18, 2013. To avoid further confusion regarding this matter and to afford you the fullest possible appeal rights, we have treated your May 17, 2013 letter as a new FOIA request and assigned it FOIA No. EPA-R3-2013-006675. In this letter, I will respond to it, as well as attempt to address the other concerns raised in your letter. Therefore, please consider this letter a further response to FOIA No. EPA-R3-2013-002669 as well as a response to FOIA No. EPA-R3-2013-006675 and refer to both numbers in any subsequent correspondence regarding this matter.

In your letter, you remarked upon an email sent by Ms. Pam Lazos, dated May 12, 2009, and seemed to indicate that the email reflects a bias against you. While EPA regrets the unfortunate choice of words used by Ms. Lazos in that email, the message should be read in context and I assure you that the matter involving a jurisdictional determination on your property is being handled in the same manner as any other EPA enforcement matter, subject to all the same internal safeguards and oversight.

With regard to the FOIA appeal to the National FOIA Officer for a previous FOIA matter, EPA Region III has provided Ms. Cindy Anderson of the Office of General Counsel with the preliminary information necessary to respond to that appeal. I recommend that you contact that office and inquire as to the timing of the response. Ms. Anderson can be reached at (202) 564-2690.

In your May 17, 2013 letter, you also indicated that you had previously requested the private email addresses of some EPA and U.S. Army Corps of Engineers employees. I am not at liberty to provide such email addresses to you. Release of this type of information is considered to be an unwarranted invasion of the personal privacy of those individuals and is exempt from disclosure pursuant to Exemption 6 of FOIA.



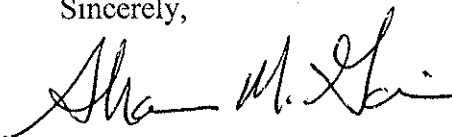
Moreover, the FOIA forum is not the correct place within which to raise questions regarding EPA's significant nexus analysis and its review and approval of your consultant's preliminary determination regarding the location of waters of the United States on your property. Since EPA is unable to provide you with legal advice as to how to proceed, I suggest you discuss such matters with your attorney.

Finally, I will respond to your request that additional information that was claimed as exempt from disclosure under Exemption 5 of FOIA in my April 22, 2013 letter be released to you as you think that the use of Exemption 5 was overbroad. I have considered your request and determined that no further documents should be released to you at this time for the reasons stated in my April 22, 2013 response. This letter, therefore, constitutes a partial denial for FOIA Request No. EPA-R3-2013-006675. The procedure for appealing my initial determination was set forth in the April 22, 2013 letter and is provided below.

You may appeal this partial denial to the National Freedom of Information Officer, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, e-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20001. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. EPA will not consider appeals received after the 30 calendar-day limit. The appeal letter should include the FOIA number listed above. For expedited handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

If you have any questions, please do not hesitate to contact Ms. Cynthia Nadolski, Sr. Assistant Regional Counsel, at (215) 814-2673.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn M. Garvin". The signature is fluid and cursive, with the first name "Shawn" being more prominent.

Shawn M. Garvin
Regional Administrator

cc: Mr. Richard Van Holt (3PA00)